

Appl. No. 10/517,275
Amdt. dated October 25, 2006
Reply to Restriction Requirement of August 8, 2006

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REMARKS/ARGUMENTS

The Applicant hereby elects to prosecute the claims of Group II (claims 22, 24, 27, 32, 33, 38, 39, 41 - 45, 47 and 48) with traverse. It is not believed that these claims are distinct from Group I or Group III claims and that they do share a common special technical feature, that is, manipulating an immune response involved in an immune disorder. Solely to further the prosecution of the application the claims of Group I and Group II have been cancelled without prejudice and may be the subject of one or more divisional applications.

The Examiner advised that should Group II elected a category of endogenous gene as listed in claims 22 and 32 must be elected. The Applicant elects a cytokine with traverse. The Applicant does not believe that searching and examination of the list of recited genes would be burdensome because each relates to processes leading to an immune disorder.

The Examiner also advised should Group II be elected a construct listed in claims 33 and 48 need be elected. This election is traversed by the Applicant. While the constructs may have a different structure they are in fact involved in the same biological activities contrary to that advised by the Examiner. Whether siRNA or hybrid DNA/RNA the construct is used to inhibit a target gene and the Applicant has already elected a cytokine as the target gene. It would certainly not be onerous for the Examiner to search both construct and furthermore the Examiner has not established that a search of both constructs would be bothersome. Therefore, the election of siRNA is made with traverse.

The Examiner asserted that an immune disorder must be elected as recited in claims 27 and 44. The Examiner stated that each disorder has its own etiology and pathology. The Applicant disagrees. Each recited disorder is recited to be an immune disorder that is being treated using the claimed siRNA construct encoding a cytokine. Thus, any disorder that is treatable with a construct encoding a cytokine is readily within the scope of the claim. The Examiner has not provided any evidence that the search and examination for this claimed invention would be burdensome. Again, solely to further the prosecution of the Application, transplant rejection is elected as the immune disorder with traverse.

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The Examiner requested that an endogenous target gene as recited as claims 41, 42 and 43 be elected. Solely to further the prosecution the Applicant elects

TNF α with traverse.

It is asserted that all of the claims of Group II, that is, claims 22, 24, 27, 32, 33, 38, 39, 41 to 45, 47 and 48 read on the elected species herein.

The Applicant believes that the claims of Group II should be pursued as a whole. The Examiner has nowhere in the Office Action provided any evidence that each election would be burdensome since the Examiner did not indicate for example which classifications would need to be searched. It is therefore believed that Group II claims in their entirety should be searched and examined.

Respectfully submitted,
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